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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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09/855,042

05/14/2001

David A. Solin

149-0161US

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08/19/2008

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI,
L.L.P.

20333 SH 249

SUITE 600

HOUSTON, TX 77070

EXAMINER

ROBINSON, GRETA LEE

ART UNIT

PAPER NUMBER

2169

MAIL DATE

DELIVERY MODE

08/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|----------------------------------------|--|
| Office Action Summary | Application No. 09/855,042 | Applicant(s) SOLIN, DAVID A. | |
| | Examiner Greta L. Robinson | Art Unit 2169 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5, 7 and 9-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-5, 7 and 9-11 is/are allowed.
- 6) ☒ Claim(s) 12 is/are rejected.
- 7) ☒ Claim(s) 13-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I (claims 2-5, 7 and 9-14) in the reply filed on May 29, 2008 is acknowledged.
2. Claims 1, 6, 8, and 15-21 have been cancelled.

Response to Arguments

3. Applicant's arguments with respect to claim 12 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Segal et al. Dynamic Program Updating in a Distributed Computer System in view of Neogi US Patent 6,650,620 B1.

Regarding claim 5, **Segal et al.** teaches a computer program product comprising computer useable medium having computer readable program code embodied therein

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for updating a computer system [note: “We present an approach to dynamically update a computer system” abstract], the method comprising:

computer readable program code devices configured to cause a computer to request, on occurrence of a first event, a first set of update information in a first request responsive to a list, the first set of update information being for a first set of information, the list comprising at least one identifier of the first set of information and at least one identifier of a second set of information [note: “Software-based service-oriented approaches attack the problem by imposing a server/client relationship on the programs they can update [4,5]. In such an approach, a number of clients request a service from a server via some well defined mechanism such as an operating system primitive or remote procedure call” see page 198 section two];

computer readable program code devices configured to cause a computer to receive the first set of update information responsive to the first request [note: page 199 updating nomenclature];

computer readable program code devices configured to cause a computer to update the first set of information on the computer system by modifying the first set of information responsive to at least the first set of update information received in the first request [note: pages 199-200 sections 3.3-3.4 criteria for updating a procedure and justification for updating criteria (i.e. procedure may be defined)];

computer readable program code devices configured to cause a computer to request, on occurrence of a second event following the first event, a second set of

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update information for the first set of information in a second request [note: pages 199-200 sections 3.3-3.4 note details to implement algorithm]; and

computer readable program code devices configured to cause a computer to request, at least after the occurrence of the first event, a third set of update information for the second set of information in a third request, wherein the second request is made before the third request is made [note: page 199-200 sections 3.3-3.4 details to implement algorithm]. Although Segal teaches the invention substantially as cited above, they do not explicitly teach requesting in response to a list. Neogi teaches requesting includes capturing a client service requests which includes a routing directive based on a resource status synchronization table (i.e. a list) [see: abstract; Figure 3; col. 3 line 64 through col. 4 line 34]. It would have been obvious to one of ordinary skill at the time of the invention to have combined Neogi with Segal et al. because the status synchronization table provides a means of accessing requests for update.

Allowable Subject Matter

5. Claims 2-4 and 9-11 are allowed.

6. Claims 13-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta L. Robinson whose telephone number is (571)272-4118. The examiner can normally be reached on M-F 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tony Mahmoudi can be reached on (571)272-4078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Greta L. Robinson/
Primary Examiner, Art Unit 2169a
August 15, 2008

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